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Attorneys for Plaintiff
United States of America

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

UNITED STATES OF AMERICA,)	NO. CV 08-4315 MMM (JCx)
)	
Plaintiff,)	[PROPOSED]
)	
vs.)	CONSENT JUDGMENT OF FORFEITURE
)	
FIVE PARCELS OF REAL PROPERTY)	
LOCATED IN RIVERSIDE COUNTY,)	
CALIFORNIA (ADRIAN C. LOPEZ),)	
)	
Defendants.)	
)	
GLENDORA LOPEZ, ALMA FERNANDEZ)	
ACOSTA, JESUS ISABEL ACOSTA)	
LOPEZ, AND ELVIA AGUAYO,)	
)	
Claimants.)	
)	

By the signatures hereunder, plaintiff United States of
America ("the United States" or "Plaintiff"), titleholders Jesus
Isabel Acosta Lopez ("J. Lopez"), Alma Fernandez Acosta

1 ("Acosta"), Elvia Aguayo ("E. Aguayo"), Vanessa Aguayo ("V.
2 Aguayo") and Blanca Barajas ("Barajas") and claimants Glendora
3 Lopez ("G. Lopez"), Acosta, J. Lopez, and E. Aguayo
4 (collectively "the parties") request that the Court enter this
5 Proposed Consent Judgment of Forfeiture ("Judgment").
6

7 The complaint in this civil forfeiture action was filed on
8 June 30, 2008, alleging that the five defendant real properties
9 located in Riverside County, California ("defendant real
10 properties") were subject to forfeiture pursuant to 21 U.S.C. §
11 881(a)(6) and (7). Notice was given and published in accordance
12 with law. J. Lopez, Acosta, E. Aguayo, V. Aguayo and Barajas
13 are the current titleholders on the defendant properties. G.
14 Lopez, J. Lopez, Acosta, and E. Aguayo have filed claims and
15 answers. No other claims or answers were filed and the time for
16 filing claims and answers has expired. The agreement set out in
17 this Proposed Consent Judgment is dispositive of this action.
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19

20 The parties have agreed to settle this forfeiture action
21 and to avoid further litigation.
22

23 The Court has been duly advised of and has considered the
24 matter. Based upon the mutual consent of the parties,
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26 ///

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IT IS ORDERED, ADJUDGED AND DECREED:

1. This Court has jurisdiction over the subject matter of this action and the defendant real properties.

2. The Complaint for Forfeiture states claims for relief against the defendant real properties pursuant to 21 U.S.C. § 881(a)(6) and (7). All potential claimants other than G. Lopez, J. Lopez, Acosta and E. Aguayo are hereby deemed to have admitted the allegations of the complaint.

3. Notice of this action has been given as required by law. There are five defendant real properties involved in this litigation. The parties waive the requirements of Local Rule 79-5.4(e) to be able to effectuate this Judgment. Three of the defendant properties shall be sold or transferred and the net proceeds of sale forfeited¹.

4. The three defendant properties to be forfeited are:

a. Real property at 74250 Goleta Avenue, Palm Desert, California 92260, and more particularly described as:

THE PROPERTY IN THE CITY OF PALM DESERT, RIVERSIDE COUNTY, STATE OF CALIFORNIA, DESCRIBED AS: LOT 77 OF PALM VILLAGE GARDEN TRACT, IN THE CITY OF PALM DESERT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 21, PAGES 56 AND 57 OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA. EXCEPTING

¹ The United States agrees to withdraw its efforts to forfeit two defendant real properties, more specifically described as: Real property at 43608 Arabia Street, Indio, California 92201; and Real property at 21205 Smith Road, Desert Hot Springs, California 92241.

THEREFROM ALL STANDIG, FLOWING AND PERCOLATING WATER OR WATERS IN OR UNDER AND WITHIN THE HEREIN DESCRIBED PROPERTY, AS RESERVED BY MOLLINE INVESTMENT COMPANY, BY INSTRUMENT RECORDED OCTOBER 23, 1946 IN BOOK 782, PAGE 394 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA. SUBJECT TO: COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS, RIGHTS, RIGHTS OF WAY AND EASEMENTS OF RECORD.

ASSESSOR'S PARCEL NO. 625-021-018-9

b. Real property at 416 West Dominguez Road, Palm Springs, California 92262², and more particularly described as:

LOT(S) 5 IN BLOCK D OF SPAULDING PALM SPRINGS ESTATES, IN THE CITY OF PALM SPRINGS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 20 PAGES(S) 72 AND 73, OF MAPS, IN THE OFFICE OF THE COUNTY RCORDER OF SAID COUNTY.

ASSESSOR'S PARCEL NO. 504-093-012-2

c. Undeveloped real property 1.24 acres East of Indian Avenue, North Palm Springs, County of Riverside, California 92258, and more particularly described as:

THE WEST HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 11, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SAN BERNARDINO BASE AND MERIDIAN. ALSO

² Real property at 416 West Dominguez Road, Palm Springs, California has a lien in the amount of \$275,000.00 in the name of MortgageIT, Inc. MERS, as nominee for MortgageIT, Inc. and its successors and assigns, was notified of this action via certified mail on July 1, 2008. Plaintiff also recorded a lis pendens on July 2, 2008. On January 8, 2010, Claimants' counsel informed Plaintiff's counsel that this home loan lien is now in the name of Bank of America Home Loans (Account No. xxxxx8457). Although no parties filed a claim related to this lien, the United States will recognize this lien as outlined in paragraph 5 and will relinquish Bank of America Home Loans or its successors or assigns from its obligation to file a claim in this litigation.

1 KNOWN AS 1.24 ACRES EAST OF INDIAN AVE., NORTH PALM
2 SPRINGS, CA, 92258.

3 ASSESSOR'S PARCEL NO. 666-250-008

4 (Collectively referred to as "forfeited defendant properties").

5 5. The forfeited defendant properties shall be sold for
6 fair market value by the United States, and the United States
7 has the power to transfer valid title to the forfeited defendant
8 properties. Each of the three forfeited defendant properties
9 will be handled separately so any proceeds or debts on each will
10 only be accessed or credited to that particular property. The
11 proceeds of any sales shall be distributed for each property
12 individually as follows:
13

14 a. First, payment of all outstanding real property
15 taxes owed to the Los Angeles County Tax Collector, up to and
16 including the date the Court enters this Judgment;
17

18 b. Second, payment of all costs of management,
19 escrow and sale, including real estate sales commissions and all
20 fees triggered by the sales of the forfeited defendant
21 properties.
22

23 c. Third, to the extent funds remain from the sale
24 of the real property at 416 West Dominguez Road in Palm Springs,
25 California only, all unpaid principal and interest due on the
26 lien in favor of Bank of America Home Loans or its successors or
27 assigns, as well as all unpaid interest and other fees or costs
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1 in favor of Bank of America Home Loans, including advances for
2 payment of property tax and hazard insurance, if any, incurred
3 prior to the government's sending of notice of this action; and,
4

5 d. Fourth, to the extent funds remain, said funds
6 (the "Net Proceeds") shall be the property of the United States,
7 and not other right, title or interest shall exist therein.

8 6. All occupants of the forfeited defendant properties in
9 paragraph 4 shall remove their personal property from the
10 forfeited defendant properties on or before April 30, 2010. The
11 parties shall notify Plaintiff's counsel immediately after such
12 personal property has been removed.
13

14 7. If any occupants fail to remove their personal
15 property on or before April 30, 2010, the United States
16 (including, but not limited to, United States Department of
17 Homeland Security - U.S. Customs and Border Protection, its
18 agents, and its contractors) may enter and take possession of
19 the forfeited defendant properties by whatever reasonable means
20 are necessary to remove and dispose of the personal property,
21 without further notice or court order.
22
23

24 8. All occupants of the forfeited defendant properties
25 shall vacate these forfeited defendant properties on or before
26 April 30, 2010. Claimants shall immediately terminate all
27 leases as to the property, and shall provide a copy of this
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1 Judgment to all adult residents of the forfeited defendant
2 properties within seven (7) calendar days of the entry of this
3 Judgment. (The United States may also serve this Judgment on
4 the occupants.)
5

6 9. If the occupants fail to vacate the forfeited
7 defendant properties on or before April 30, 2010, the United
8 States (including, but not limited to, United States Department
9 of Homeland Security - U.S. Customs and Border Protection, its
10 agents, and its contractors) shall be authorized to enter and
11 take possession of the forfeited defendant properties by
12 whatever reasonable means are necessary and to evict all
13 residents/occupants and remove their personal property, without
14 further notice or court order.
15

16 10. The titleholders shall maintain appropriate policies
17 of insurance on the forfeited defendant properties effective
18 through April 30, 2010, including policies covering potential
19 liability for personal injury or property damage occurring on or
20 around each of the defendant properties. Not later than seven
21 (7) calendar days after the date the titleholders sign this
22 Judgment, they shall provide Plaintiff's counsel a copy of each
23 insurance policy currently in effect, including amendments.
24
25

26 11. The parties shall execute any and all further
27 documents to the extent necessary to convey clear title of the
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1 forfeited defendant properties and to further implement the
2 terms of this Judgment.

3 12. J. Lopez, G. Lopez, Acosta, E. Aguayo, V. Aguayo and
4 Barajas hereby release the United States of America, its
5 agencies, officers, and employees, including employees of the
6 United States Department of Homeland Security - U.S. Customs and
7 Border Protection, their agents, officers, and employees, from
8 any and all claims, actions, or liabilities arising out of or
9 related to this action, including, without limitation, any claim
10 for attorney's fees, costs, or interest on behalf of J. Lopez,
11 G. Lopez, Acosta, E. Aguayo, V. Aguayo and Barajas, whether
12 pursuant to 28 U.S.C. § 2465 or otherwise.

15 13. The Court finds that there was reasonable cause for
16 the institution of these proceedings. This judgment shall be
17 construed as a certificate of reasonable cause pursuant to 28
18 U.S.C. § 2465.

20 14. The Court further finds that J. Lopez, G. Lopez,

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1 Acosta, E. Aguayo, V. Aguayo and Barajas did not substantially
2 prevail in this action, and each party shall bear their own
3 attorney's fees and other costs of litigation.
4

5 15. The Court retains jurisdiction over this case and the
6 parties hereto to effectuate the terms of this Judgment.

7
8 DATED: March 31, 2010



9 THE HONORABLE MARGARET M. MORROW
10 UNITED STATES DISTRICT JUDGE
11

12 [Signatures of parties appear on the next page.]
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Approved as to form and content:

CONSENT

The government and J. Lopez, Acosta, E. Aguayo, V. Aguayo and Barajas consent to entry of this Judgment and waive any right of appeal.

DATED: February __, 2010 GEORGE S. CARDONA
Acting United States Attorney
CHRISTINE C. EWELL
Assistant United States Attorney
Chief, Criminal Division
STEVEN R. WELK
Assistant United States Attorney
Chief, Asset Forfeiture Section

KATHARINE SCHONBACHLER
Special Assistant United States Attorney
Attorneys for Plaintiff
United States of America

DATED: February __, 2010 LAW OFFICE OF JAMES J. WARNER

FREDERICK M. REICH, ESQ.
Attorney for Claimants
GLENORA LOPEZ, ALMA FERNANDEZ ACOSTA,
JESUS ISABLE ACOSTA LOPEZ, AND ELVIA
AGUAYO

DATED: February __, 2010

BLANCA BARAJAS

DATED: February __, 2010

VANESSA AGUAYO